

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
	:	Examiner: D. Margaret M. Seaman
BENOIT LEDOUSSAL, ET AL.)	
	:	Art Unit: 1625
Application No.: 10/085,786)	
	:	Confirmation No.: 2010
Filed: February 28, 2002)	
	:	
For: ANTIMICROBIAL QUINOLONES,)	
THEIR COMPOSITIONS	:	
AND USES)	April 15, 2011

Mail Stop: Petitions

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. §1.137(b) TO
REVIVE UNINTENTIONALLY ABANDONED APPLICATION

Sir:

Applicants timely request the Commissioner for reconsideration of the dismissal set forth in the Decision on Petition mailed February 28, 2011.

Applicants hereby submit a renewed petition to the Commissioner under 37 C.F.R. §1.137(b) to revive the above-identified application, which became abandoned for failure to timely reply to a non-final Office Action dated October 1, 2002 (“Office Action”), for co-pendency with subsequently filed U.S. Application No. 10/392,476 (“the ‘476 application”), issued as U.S. Patent No. 6,849,740. The following events may be of note:

- A non-final Office Action dated October 1, 2002, was issued.

- A new continuation application claiming priority to the present application was filed on March 18, 2003, by the former owners The Procter & Gamble Company (“P&G”).
- Based on the U.S. Patent and Trademark Office (“USPTO”) records, it appears that a petition to extend the time for response to the Office Action was not filed by P&G in order to maintain co-pendency of the present application with the ‘476 application. However, it is noted that when the present application and the ‘476 application were filed, an authorization to charge any additional fee required under 37 C.F.R. §§1.16 and 1.17 and a Deposit Account Number to charge the same were provided by P&G.
- A Notice of Abandonment for failure to respond to the Office Action was mailed on April 17, 2003.
- The new continuation application was assigned U.S. Application No. 10/392,476 and a filing date of March 18, 2003.
- In May of 2010, while conducting a review of the prosecution files of applications that had been purchased by Warner Chilcott from P&G, it was discovered that no petition for extension of time was in the file for the present application. An investigation was initiated to determine if the extension fee had been paid through multiple inquiries with P&G personnel, including acquiring and reviewing their accounting records.
- On October 19, 2010, once it had been determined through investigation that the fee for extension of time had not been paid,

Applicants filed a Petition under 37 C.F.R. §1.137(b) Revive Unintentionally Abandoned Application to revive the present application.

- A Decision on Petition (“Decision”) dismissing the Petition of October 19, 2010 was mailed on February 28, 2011. The Decision requested “the submission of a statement by a party with firsthand or direct knowledge of the facts and circumstances surrounding the period of abandonment prior to Warner obtaining ownership of the application” and suggested contacting Mr. David Upite, the P&G attorney who filed both the present application and the ‘476 application, concerning the requested information. Page 2 of the Decision.
- Applicants hereby submit Mr. David V. Upite’s Statement in Support of Petition Under 37 C.F.R. §1.137(b) to Revive Unintentionally Abandoned Application.

Applicants petition to extend the time for response to the Office Action for three months, from January 1, 2003, to April 1, 2003. The \$1,110.00 extension fee is submitted herewith. Please charge any additional fee required, and credit any overpayment, to Deposit Account 50-3939.

In conformity with 37 C.F.R. §1.137(b)(1), and in response to the Office Action, it is submitted that the required reply was met with the filing of the continuing application (the ‘476 application). In accordance with 37 C.F.R. §1.137(b)(2), the \$1,620.00 petition fee required under 37 C.F.R. §1.17(m) was submitted with the Petition filed on October 19, 2010. According to the Decision, no further petition fee is required

for the instant renewed petition. Nonetheless, any additional fees deemed required to process the instant petition can be charged to, or any overpayment can be credited to, Deposit Account 50-3939. Because this application was filed after June 8, 1995, no Terminal Disclaimer is required in accordance with 37 C.F.R. §1.137(d).

The entire delay in filing the required reply from the due date for the reply until the filing of the instant petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. In view of the foregoing, the Commissioner is respectfully requested to revive the above-identified application for co-pendency with subsequently filed '476 application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/Raymond R. Mandra/
Raymond R. Mandra
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P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF PETITION UNDER 37 C.F.R. §1.137(b)
TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

Sir:

1. I, the undersigned DAVID V. UPITE, am an attorney with the legal division of The Procter & Gamble Company ("P&G"), One Procter & Gamble Plaza, Cincinnati, Ohio 45202, the former owner of the above-identified application. I have been with P&G since about September of 2000. I am the attorney who was primarily responsible for prosecution of the present application. I was also the attorney who was primarily responsible for filing and prosecuting U.S. Application No. 10/392,476 ("the '476 application"), issued as U.S. Patent No. 6,849,740.

2. The following events may be of note:

- A non-final Office Action dated October 1, 2002, was issued.

- P&G filed a new continuation application claiming priority to the present application on March 18, 2003.
- Based on the U.S. Patent and Trademark Office (“USPTO”) records, it appears that a petition to extend the time for response to the Office Action was not filed by P&G in order to maintain co-pendency of the present application with the ‘476 application. However, it is noted that when the present application and the ‘476 application were filed, an authorization to charge any additional fee required under 37 C.F.R. §§1.16 and 1.17 and a Deposit Account Number to charge the same were provided by P&G.
- A Notice of Abandonment for failure to respond to the Office Action was mailed on April 17, 2003.
- The new continuation application was assigned U.S. Application No. 10/392,476 and a filing date of March 18, 2003.

3. The failure in filing the required petition to extend the time for response to the Office Action was unintentional. This is evident from the fact that the ‘476 application was filed as a continuation of the present application.

 4/14/2011
 David V. Upite
 The Procter & Gamble Company
 Global Legal Department
 299 East Sixth Street
 Cincinnati, Ohio 45202